

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to nursing facilities
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 58, “Nursing Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135C.2 and 2022 Iowa Acts, House File 803.

Purpose and Summary

The Department completed a comprehensive review of Chapter 58 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making removes outdated, unnecessary, and redundant content by streamlining language, referencing pertinent state and federal law, and conforming rules with current and long-standing practices. The proposed amendments also update rules in accordance with changes included in 2022 Iowa Acts, House File 803, providing the same power, privilege, right, or duty to a physician assistant licensed under Iowa Code chapter 148C as to a physician, as is consistent with the scope of practice of the physician assistant as specified therein.

The Department does not believe that the proposed amendments pose a financial hardship to any regulated entity or individual. Rather, the proposed amendments eliminate unnecessary language from the Iowa Administrative Code.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 14, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street.
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **481—58.1(135C)**, definitions of “Ambulatory” and “Qualified intellectual disabilities professional,” as follows:

“*Ambulatory*” means the condition of a person who immediately and without aid of another is physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs if applicable to the facility.

“*Qualified intellectual disabilities professional*” means a psychologist, physician, physician assistant, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and having one year’s experience working with persons with an intellectual disability.

ITEM 2. Rescind the definition of “Chairfast” in rule **481—58.1(135C)**.

ITEM 3. Amend rule 481—58.4(135C) as follows:

481—58.4(135C) General requirements.

58.4(1) to 58.4(4) No change.

58.4(5) ~~No~~ A nursing facility shall not be licensed for more beds than have been approved by the health facilities ~~construction review committee~~ council pursuant to Iowa Code chapter 135 or than the facility can accommodate pursuant to the minimum physical standards for nursing facilities as set forth in 481—Chapter 61.

58.4(6) ~~Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department~~ The facility shall post in a place readily accessible to residents, visitors, and persons inquiring about placement in the facility the results of the most recent survey of the facility. The facility shall maintain any surveys, certifications, and complaint investigations made respecting the facility during the three preceding years, and any plan of correction in effect with respect to the facility, available for any individual to review upon request. (III)

ITEM 4. Amend rule 481—58.5(135C) as follows:

481—58.5(135C) Notifications required by the department. The department shall be notified:

58.5(1) Within 48 hours, ~~by letter,~~ of any reduction or loss of nursing or dietary staff lasting more than seven days which places the staffing ratio requirements below ~~that those~~ required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

58.5(2) ~~Of Thirty days before~~ any proposed change in the nursing facility's functional operation or addition or deletion of required services; (III)

58.5(3) to 58.5(6) No change.

58.5(7) Prior to the purchase, transfer, assignment, or lease of a nursing facility, the licensee shall:

a. No change.

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed; (III)

~~c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's nursing facility to the named prospective purchaser, transferee, assignee, or lessee. (III)~~

~~**58.5(8)** Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a nursing facility, the department shall upon request send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.~~

ITEM 5. Amend paragraph **58.8(2)“a”** as follows:

a. The distance between the two facilities shall be no greater than ~~50~~ 75 miles. (II)

ITEM 6. Amend paragraph **58.8(4)“b”** as follows:

b. The facility shall notify the department in writing within ~~ten business~~ 14 days of the administrator's appointment. The written notice shall include the estimated time frame for the appointment of the provisional administrator and the reason for the appointment of a provisional administrator. (III)

ITEM 7. Amend subrules 58.10(8) and 58.10(9) as follows:

58.10(8) Infection control program. Each facility shall have a written and implemented infection control and exposure control program with policies and procedures based on the guidelines issued by the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services. (I, II, III) CDC guidelines are available at ~~www.cdc.gov/ncidod/dhqp/index.html~~ www.cdc.gov.

58.10(9) Infection control committee. Each facility shall establish an infection control committee of representative professional staff responsible for overall infection control in the facility. The infection control committee may be part of or the same as another quality assurance committee as long as the following standards are met: (III)

a. to c. No change.

ITEM 8. Amend subrule 58.11(1) as follows:

58.11(1) *General qualifications.*

a. and b. No change.

c. No person shall be allowed to provide services in a facility if the person has a disease:

(1) to (4) No change.

Refer to ~~Guidelines for Infection Control in Hospital Personnel,~~ guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, ~~PB85-923402~~ to determine (1), (2), (3) and (4).

~~d. Reserved.~~

~~e. d.~~ Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)

~~f. e.~~ Persons employed in all departments, except the nursing department of a nursing facility, shall be qualified through formal training or through prior experience to perform the type of work for which they have been employed. Prior experience means at least 240 hours of full-time employment in a field related to their duties. Persons may be hired in laundry, housekeeping, activities and dietary

without experience or training if the facility institutes a formal in-service training program to fit the job description in question and documents such as having taken place within 30 days after the initial hiring of such untrained employees. (III)

~~g.~~ Rescinded, effective 7/14/82.

~~h. f.~~ The health services supervisor shall be a qualified nurse as defined in these regulations. (II)

~~i.~~ Those persons employed as nurse's aides, orderlies, or attendants in a nursing facility who have not completed the state-approved 75-hour nurse's aide program shall be required to participate in a structured on-the-job training program of 20 hours' duration to be conducted prior to any resident contact, except that contact required by the training program. This educational program shall be in addition to facility orientation. Each individual shall demonstrate competencies covered by the curriculum. This shall be observed and documented by an R.N. and maintained in the personnel file. No aide shall work independently until this is accomplished, nor shall the aide's hours count toward meeting the minimum hours of nursing care required by the department. The curriculum shall be approved by the department. An aide who has completed the state-approved 75-hour course may model skills to be learned.

Further, such personnel shall be enrolled in a state-approved 75-hour nurse's aide program to be completed no later than six months from the date of employment. If the state-approved 75-hour program has been completed prior to employment, the on-the-job training program requirement is waived. The 20-hour course is in addition to the 75-hour course and is not a substitute in whole or in part. The 75-hour program, approved by the department, may be provided by the facility or academic institution.

Newly hired aides who have completed the state-approved 75-hour course shall demonstrate competencies taught in the 20-hour course upon hire. This shall be observed and documented by an R.N. and maintained in the personnel file.

All personnel administering medications must have completed the state-approved training program in medication administration. (II)

~~j. g.~~ There shall be an organized ongoing in-service educational and training program planned in advance for all personnel in all departments. (II, III)

~~k. h.~~ Nurse aides may be utilized in accordance with the requirements in 441—subrule 81.13(19) and rule 441—81.16(249A). Nurse aides, orderlies or attendants in a nursing facility who have received training other than the Iowa state-approved program, must pass a challenge examination competency evaluation approved by the department of inspections and appeals in accordance with 441—subrule 81.13(19) and rule 441—81.16(249A). Evidence of prior formal training in a nursing aide, orderly, attendant, or other comparable program must be presented to the facility or institution conducting the challenge examination before the examination is given. The approved facility or institution, following department of inspections and appeals guidelines, shall make the determination of who is qualified to take the examination. Documentation of the challenge examinations administered shall be maintained.

ITEM 9. Amend subrule 58.11(2) as follows:

58.11(2) Nursing supervision and staffing.

~~a.~~ Rescinded IAB 8/7/91, effective 7/19/91.

~~b. a.~~ Where only part-time nurses are employed, one nurse shall be designated health service supervisor. (III)

~~e. b.~~ A qualified nurse shall be employed to relieve the supervising nurses, including charge nurses, on holidays, vacation, sick leave, days off, absences or emergencies. Pertinent information for contacting such relief person shall be posted at the nurse's station readily available to nurses. (III)

~~d. c.~~ When the health service supervisor serves as the administrator of a facility 50 beds and over, a qualified nurse must be employed to relieve the health service supervisor of nursing responsibilities. (III)

~~e. d.~~ The department may establish on an individual facility basis the numbers and qualifications of the staff required in the facility using as its criteria the services being offered and the needs of the residents. (III)

~~f.~~ Additional staffing, above the minimum ratio, may be required by the department commensurate with the needs of the individual residents. (III)

~~g.~~ The minimum hours of resident care personnel required for residents needing intermediate nursing care shall be 2.0 hours per resident day computed on a seven-day week. A minimum of 20 percent of this time shall be provided by qualified nurses. If the maximum medical assistance rate is reduced below the 74th percentile, the requirement will return to 1.7 hours per resident per day computed on a seven-day week. A minimum of 20 percent of this time shall be provided by qualified nurses. (II, III)

~~h.~~ The health service supervisor's hours worked per week shall be included in computing the 20 percent requirement.

~~i. e.~~ A nursing facility of 75 beds or more shall have a qualified nurse on duty 24 hours per day, seven days a week. (II, III)

~~j. f.~~ In facilities under 75 beds, if the health service supervisor is a licensed practical nurse, the facility shall employ a registered nurse, for at least four hours each week for consultation, who must be on duty at the same time as the health service supervisor. (II, III)

(1) to (3) No change.

~~k. g.~~ Facilities with 75 or more beds must employ a health service supervisor who is a registered nurse. (II)

~~l. h.~~ There shall be at least two people who shall be capable of rendering nursing service, awake, dressed, and on duty at all times. (II)

~~m. i.~~ Physician's and other qualified health care practitioner's orders shall be implemented by qualified personnel. (II, III)

ITEM 10. Amend paragraph **58.12(1)“g”** as follows:

~~g.~~ A nursing facility shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. Residents have a right to retain and use personal possessions, including furnishings and clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents. (III)

ITEM 11. Amend subrule 58.14(2) as follows:

58.14(2) Each resident admitted to a nursing facility shall have had a physical examination prior to admission. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be made part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician or other qualifying health care practitioner, shall be a part of the resident's record. (III)

ITEM 12. Amend subrule 58.14(6) as follows:

58.14(6) A schedule listing the names and telephone numbers of the physicians shall be ~~posted in each nursing station~~ readily available to nursing staff. (III)

ITEM 13. Amend paragraph **58.15(2)“c”** as follows:

~~c. Physical examination:~~ The record of the admission physical examination and described in subrule 58.14(2). It shall include the resident's name, sex, age, pertinent medical history, shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, tuberculosis status, physical examination, diagnosis, statement of chief complaints, estimation of restoration potential and results of any diagnostic procedures. The report of the physical examination shall be signed by the physician. and any other information required to adequately assess the resident and whether the facility is able to meet the resident's needs; (III)

ITEM 14. Amend paragraph **58.15(2)“e”** as follows:

~~e. Physician's orders~~ Orders for medication, treatment, and diet in writing and signed by the physician an appropriate qualifying health care practitioner quarterly; (III)

ITEM 15. Amend paragraph **58.15(4)“b”** as follows:

~~b.~~ Report of incidents shall be in detail on a printed incident report form or electronic form. (III)

ITEM 16. Amend subparagraph **58.21(6)“c”(2)** as follows:
(2) Be employed in the same facility ~~for and work~~ at least ~~six consecutive months~~ 480 hours prior to the start of the medication aide course. ~~This requirement is not subject to waiver.~~

ITEM 17. Amend paragraph **58.21(6)“d”** as follows:
d. A person who is a nursing student ~~or a graduate nurse~~ may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

(1) to (4) No change.

ITEM 18. Amend subrule 58.21(9) as follows:
58.21(9) Records shall be kept of all ~~Schedule II drug~~ medications received and dispensed in accordance with the ~~controlled drug and substance Act~~ 42 CFR 483.45(b)(2) and federal interpretive guidelines. (III)

ITEM 19. Amend paragraph **58.21(11)“b”** as follows:
b. Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy ~~examiners~~.

ITEM 20. Amend paragraph **58.21(13)“a”** as follows:
a. Bulk supplies of prescription drugs shall not be kept in a nursing facility unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist or the prescription drugs are stored in an automated medication distribution system (AMDS) in compliance with standards established by the Iowa board of pharmacy. (III)

ITEM 21. Amend paragraph **58.21(14)“a”** as follows:
a. All prescribed medications shall be clearly labeled indicating the resident’s full name, physician’s name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Where unit dose is used, prescribed medications shall, as a minimum, indicate the resident’s full name, physician’s name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. Prescription medications distributed from an AMDS shall follow any labeling standards established by the Iowa board of pharmacy. (III)

ITEM 22. Amend paragraphs **58.21(14)“j”** and **“k”** as follows:
j. Instructions shall be requested of the Iowa board of pharmacy ~~examiners~~ concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)
k. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident’s current medications. Discontinued drugs shall be destroyed by the responsible nurse with a witness and a notation made to that effect or returned to the pharmacist for destruction or resident credit. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy ~~examiners~~. (II, III)

ITEM 23. Amend paragraph **58.21(14)“r”** as follows:
r. A pharmacy operating in connection with a nursing facility shall comply with the provisions of the pharmacy law requiring registration of pharmacies and the regulations of the Iowa board of pharmacy ~~examiners~~. (III)

ITEM 24. Amend subparagraph **58.22(1)“d”(1)** as follows:
(1) The ~~physician’s~~ prescription for treatment; (III)

ITEM 25. Amend subparagraph **58.22(2)“d”(1)** as follows:
(1) Develop the treatment plan and administer or direct treatment in accordance with the ~~physician’s~~ prescription and rehabilitation goals; (III)

ITEM 26. Amend subrules 58.24(2) to 58.24(4) as follows:

58.24(2) Dietary staffing. The facility shall employ dietary staff in accordance with 42 CFR 483.60(a).

a. ~~The facility shall employ a qualified dietary supervisor who:~~

~~(1) Is a qualified dietitian as defined in 58.24(2)“e”; or~~

~~(2) Is a graduate of a dietetic technician training program approved by the Academy of Nutrition and Dietetics; or~~

~~(3) Is a certified dietary manager certified by the certifying board for dietary managers of the Association of Nutrition and Foodservice Professionals and maintains that credential through 45 hours of ANFP-approved continuing education; or~~

~~(4) Has completed an ANFP-approved course curriculum necessary to take the certification examination required to become a certified dietary manager; or~~

~~(5) Has documented evidence of at least two years’ satisfactory work experience in food service supervision and who is in an approved dietary manager association program and will successfully complete the program within 24 months of the date of enrollment; or~~

~~(6) Has completed the 90-hour training course approved by the department and is a certified food protection manager who has received training from and passed a test that is part of an American National Standards Institute (ANSI)-accredited Certified Food Protection Manager Program. (II, III)~~

b. and c. No change.

d. The facility shall employ sufficient supportive personnel to carry out the following functions:

(1) Preparing and serving adequate amounts of food that are handled in a manner to be bacteriologically safe; (II, III)

(2) Washing and sanitizing dishes, pots, pans and equipment at temperatures required by procedures described in the Food Code as defined in Iowa Code section 137F.2; (II, III)

(3) Serving therapeutic diets as prescribed by the physician or other qualified health care practitioner, including a licensed dietitian if delegated by the physician and within the dietician’s scope of practice, and following the planned menu. (II, III)

e. ~~The facility may assign simultaneous duties in the kitchen and laundry, housekeeping, or nursing service to appropriately trained personnel. Proper sanitary and personal hygiene procedures shall be followed as outlined under the rules pertaining to staff hygiene in compliance with the Food and Drug Administration Food Code adopted pursuant to Iowa Code section 137F.2 and 481—Chapter 31.~~ (II, III)

f. to h. No change.

58.24(3) Nutrition and menu planning.

a. Menus shall be planned and followed to meet the nutritional needs of each resident in accordance with ~~the physician’s~~ a qualified health care practitioner’s orders and in consideration of the resident’s allergies, intolerances, choices, and preferences. (II, III)

b. Menus shall be planned to provide 100 percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. A current copy of the Simplified Diet Manual or other suitable diet manual shall be available and used in the planning and serving of all meals. (II)

c. At least three meals or their equivalent shall be served daily at regular hours. (II)

(1) There shall be no more than a 14-hour span between a substantial evening meal and breakfast except as provided in subparagraph (3) below. (II, III)

(2) ~~The facility shall offer snacks at bedtime daily.~~ Suitable, nourishing alternative meals and snacks must be provided to residents who want to eat at nontraditional times or outside of scheduled meal service times, consistent with the resident plan of care. (II, III)

(3) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast of the following day. The current resident group must agree to this meal span and a nourishing snack must be served. (II)

d. to g. No change.

h. Alternate foods of similar nutritional value shall be offered to residents who refuse the food served. (II, III)

58.24(4) Therapeutic diets and nutritional status.

a. The facility shall ensure that each resident has a nutritional assessment completed by the licensed dietitian within 14 days of admission or after the facility determines there has been a significant change in the resident's physical or mental condition that addresses the residents' medical condition and therapeutic dietary needs, desires and rights in regard to their nutritional plan. (I, II, III)

b. Therapeutic diets shall be prescribed by the resident's physician or other qualified health care practitioner. A current edition of the Simplified Diet Manual or other suitable diet manual shall be readily available to physicians, nurses and dietetic services personnel. A current diet manual shall be used as a guide for writing menus for therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and reviewing procedures for preparation and service of food. (II, III)

c. and *d.* No change.

ITEM 27. Amend subrule 58.26(2) as follows:

58.26(2) Coordination of activities program.

a. No change.

b. Staffing for the activity program shall be ~~provided on the minimum basis of 35 minutes per licensed bed per week~~ sufficient to meet the residents' activity needs. (II, III)

~~*c.* The activity coordinator shall have completed the activity coordinators' orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)~~

~~*d. c.* The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)~~

~~*e. d.* There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)~~

ITEM 28. Rescind and reserve rule ~~481—58.27(135C)~~.

ITEM 29. Amend paragraph **58.35(1)“b”** as follows:

b. ~~Battery operated, portable~~ Portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

ITEM 30. Amend subrule 58.35(5) as follows:

58.35(5) Heating. A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except as permitted in the governing Life Safety Code or in an emergency. In the event of emergency use, the facility shall provide notice to the state fire marshal's office within 24 hours. (III)

ITEM 31. Amend paragraph **58.38(3)“b”** as follows:

b. There shall be disposable or one-time use items available with provisions for proper disposal to prevent reuse except as allowed by ~~58.10(8)“h,” 481—paragraph 59.12(10)“h,” or 481—paragraph 64.12(14)“h.”~~ generally accepted infection control standards. (I, II, III)

ITEM 32. Amend paragraph **58.38(3)“f”** as follows:

f. Supplies and equipment for nursing and personal care sufficient in quantities to meet the needs of the residents shall be provided ~~and, as a minimum, include the following:~~ (III)

Bath basins	Rectal tubes
Soap containers	Catheters and catheterization equipment
Denture cups	Douche nozzle
Emesis basins	Oxygen therapy equipment
Mouthwash cups	Naso-gastric feeding equipment
Bedpans	Wheelchairs

Urinals	Moisture-proof draw sheets
Enema equipment	Moisture-proof pillow covers
Commodes	Moisture-proof mattress covers
Quart graduate measure	Foot tubs
Thermometer for measurement of bath water temperature	Metal pitcher
Oral thermometer	Disinfectant solutions
Rectal thermometer	Alcohol
Basins for sterilizing thermometers	Lubricating jelly
Basins for irrigations	Skin lotion
Asepto-syringes	Applicators
Sphygmomanometer	Tongue blades
Paper towels	Toilet paper
Paper handkerchiefs	Rubber gloves or disposable gloves
Insulin syringes	Scales for nonambulatory patients
2-cc hypodermic syringes	Tourniquet
Weight scales	Suction machine
Hypodermic needles	Medicine dispensing containers
Stethoscope	Bandages
Ice caps	Adhesive
Hot water bottles	Portable linen hampers
	Denture identification equipment
	Tracheotomy care equipment

ITEM 33. Amend subrule 58.39(2) as follows:

58.39(2) Policies and procedures shall address the admission and retention of persons with histories of dangerous or disturbing behavior. For the purposes of the subrule, persons with histories of dangerous or disturbing behavior are those persons who have been found to be seriously mentally impaired pursuant to Iowa Code section 229.13 ~~or 812.1~~ within six months of the request for admission to the facility. In addition to establishing the criteria for admission and retention of persons so defined, the policies and procedures shall provide for:

a. to c. No change.

ITEM 34. Amend paragraphs **58.39(9)“d”** and **“e”** as follows:

d. The resident’s plan of care shall be based, in part, on the physician’s orders. It shall be developed upon admission by appropriate facility staff and shall include participation by the resident if capable. Residents shall be advised of alternative courses of care and treatment and their consequences when such alternatives are available. The resident’s preference about alternatives shall be elicited and honored if feasible.

e. Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirements of ~~Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46)~~. A resident being considered for participation in experimental research must be fully informed of the nature of the experiment, e.g., medication, treatment, and understand the possible consequences of participating or not participating. The resident’s (or responsible party’s) written informed consent must be received prior to participation. (II)

ITEM 35. Amend subparagraph **58.40(5)“a”(3)** as follows:

(3) A statement, in not less than 12-point type, that reads as follows: (II)

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (H)

ITEM 36. Amend subparagraph **58.40(6)“a”(3)** as follows:

(3) A statement, in not less than 12-point type, that reads as follows: (II)

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (H)

ITEM 37. Rescind paragraph **58.43(7)“j.”**

ITEM 38. Reletter paragraphs **58.43(7)“k”** to **“m”** as **58.43(7)“j”** to **“l.”**

ITEM 39. Amend subrule 58.44(3) as follows:

58.44(3) The resident, or the resident's responsible party, shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, ~~unless the physician determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record.~~ (II)

ITEM 40. Amend rule 481—58.46(135C) as follows:

481—58.46(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code sections 35D.14 and 347B.5. Residents may perform services for the facility if such services are performed in accordance with 42 CFR 483.10(f)(9). (II)

~~**58.46(1)** Residents may not be used to provide a source of labor for the facility against their will. Physician's approval is required for all work programs. (I, II)~~

~~**58.46(2)** If the plan of care requires activities for therapeutic or training reasons, the plan for these activities shall be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time limited and reviewed at least quarterly. (II)~~

~~**58.46(3)** Residents who perform work for the facility must receive remuneration unless the work is part of their approved training program. Persons on the resident census performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)~~

ITEM 41. Amend rule 481—58.47(135C) as follows:

481—58.47(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident’s choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

~~58.47(1)~~ Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

~~58.47(2)~~ 58.47(1) Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons: Residents shall be permitted to receive visitors in accordance with 42 CFR 483.10(f)(4) and the federal interpretive guidelines. (II)

~~a.~~ The resident refuses to see the visitor(s). (II)

~~b.~~ The resident’s physician documents specific reasons why such a visit would be harmful to the resident’s health. (II)

~~c.~~ The visitor’s behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)

~~58.47(3)~~ 58.47(2) Decisions to restrict a visitor are reviewed and reevaluated: each time the medical orders are reviewed by the physician;₂ at least quarterly by the facility’s staff;₂ or at the resident’s request. (II)

~~58.47(4)~~ 58.47(3) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

~~58.47(5)~~ 58.47(4) Telephones consistent with ANSI standards (405.1134(e)) shall be available and accessible for residents to make and receive calls with privacy in accordance with 42 CFR 483.10(g)(6) and (7). Residents who need help shall be assisted in using the telephone. (II)

~~58.47(6)~~ 58.47(5) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

~~58.47(7)~~ 58.47(6) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, qualified intellectual disabilities professional or facility administrator for refusing permission. (II)

~~58.47(8)~~ 58.47(7) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

ITEM 42. Rescind subrule **58.49(2)**.

ITEM 43. Renumber subrules **58.49(3)** to **58.49(5)** as **58.49(2)** to **58.49(4)**.

ITEM 44. Amend subrules 58.50(2) and 58.50(3) as follows:

~~58.50(2)~~ Spouses who are residents in the same facility shall be permitted to share a room, if available, ~~unless one of their attending physicians documents in the medical record those specific reasons why an arrangement would have an adverse effect on the health of the resident.~~ (II)

~~58.50(3)~~ Family members shall be permitted to share a room, if available, if requested by both parties, ~~unless one of their attending physicians documents in the medical record those specific reasons why such an agreement would have an adverse effect on the health of the resident.~~ (II)

ITEM 45. Amend rule 481—58.51(135C) as follows:

481—58.51(135C) Choice of physician and pharmacy. Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The Each resident shall have the right to choose the resident’s Medicare prescription drug benefit plan (Part D) pursuant to Section 1860D of the Social Security Act, and the facility shall utilize a pharmacy(ies) that recognizes the Part D plans chosen by that facility’s Medicare beneficiaries. Each resident shall have free choice of pharmacy as to medications purchased by the resident outside of Part D plan coverage, although the facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility.

A facility shall not require the repackaging of medications dispensed by the Veterans Administration or an institution operated by the Veterans Administration for the purpose of making the drug distribution system compatible with the system used by the facility. (II)

ITEM 46. Rescind and reserve rule **481—58.53(135C)**.

ITEM 47. Amend rule 481—58.54(73GA,ch 1016), parenthetical implementation statute, as follows:

481—58.54(73GA,~~ch 1016~~ 135C) Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility).

ITEM 48. Amend subrule 58.54(1) as follows:

58.54(1) A nursing facility which chooses to care for residents in a distinct part shall obtain a license for a CCDI unit or facility. In the case of a distinct part, this license will be in addition to its ~~ICF~~ nursing facility license. The license shall state the number of beds in the unit or facility. (III)

a. and *b.* No change.

ITEM 49. Rescind the implementation sentence in rule **481—58.54(73GA,ch 1016)**.

ITEM 50. Amend subrule 58.56(1) as follows:

58.56(1) A nursing facility certified as a Medicaid nursing facility or Medicare skilled nursing facility must meet all Medicaid and Medicare requirements including ~~42~~ 42 CFR ~~483.42~~ 483.15, admission, transfer and discharge rights.

ITEM 51. Amend **481—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~10A.202~~, 10A.402, 135C.6(1), 135C.14, ~~135C.25~~, 135C.32, 135C.36 and 227.4 and ~~1990 Iowa Acts, chapter 1016~~.